

REMARKS

Claims 3-8 and 10-14 are now pending in the present application. Claims 2 and 10 have been amended for clarity. Claims 11-14 have been added. Support for the amendment can be found throughout the application, for example, at least at Fig. 3 and ¶¶[0041]-[0051]. Claims 3 and 10 are the independent claims.

Rejections under § 101

Claims 3-8 and 10 stand rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter.

Specifically, the Office Action asserts that claims 3-8 are drawn to a computer program *per se*, which does not constitute physical articles or other forms of matter. Applicants have amended claim 3 to recite a “**computer** processor,” a statutory physical structure. In addition, Applicants have amended claim 3 to useful, concrete, and tangible result, “commodity control byte data.” Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejections to claims 3-8 under 35 U.S.C. § 101.

In addition, the Office Action asserts that claim 10 is directed to non-statutory subject matter because is not tied to a machine and does not transform the underlying subject matter to a different state or thing. Applicants respectfully traverse.

Per the Supreme Court’s decision in *Bilski v. Kappos*. (*Bilski v. Kappos*, 561 U.S. ____ June 28, 2010), the machine or transformation test is not the only test to determine if subject matter is statutory under 35 U.S.C § 101. Additionally, as stated in the memorandum dated July 27, 2010, from Robert Bahr to the Patent examining Corps, entitled “Interim Guidance for Determining Subject Matter Eligibility for Process Claims in View of *Bilski v. Kappos*” (hereinafter referred to as the “*Bilski* Guidelines Memo “), recitation of a machine or transformation is but one factor weighing toward eligibility in determining if a claim is directed to an abstract idea (*See* page 1 of the *Bilski* Guidelines Memo). “When making a subject matter eligibility determination, the relevant factors should be weighed with respect to the claim **as a whole** to evaluate whether the claim is patent-eligible or whether the abstract idea exception renders the claim ineligible.” (emphasis in original) (Page 2 of the *Bilski* Guidelines Memo).

However, in an effort to advance prosecution, claim 10 is hereby amended to recite act(s) performed by *a computer*.

Accordingly, because the rejection of claim 10 under 35 U.S.C. § 101 is based solely on the machine or transformation test, because claim 10 has not been considered as a whole to evaluate whether the claim is patent-eligible or whether the abstract idea exception renders the claim ineligible, and because claim 1 has been amended to recite an act performed by a computer, it is requested that the rejection of claims 1 under 35 U.S.C. § 101 be reconsidered and withdrawn.

Rejections under § 103(a)

Claims 3-8 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Application Publication No. 2002/0198791 to Perkowski *et al.* ("Perkowski"). Applicants respectfully submit that the claims patentably define over Perkowski because the Perkowski do not disclose, teach or suggest the features recited in the claims as a whole including extending a commodity control byte data *in a linear direction*.

Claim 3 recites extending a commodity control byte data *in a linear direction*. The commodity control byte data may include a commodity identification information for identifying the commodity, manufacturer information associated with a plurality of manufacturers that have manufactured the commodity and client information associated with a plurality of clients that have acquired the commodity. For example, as a commodity flows from one manufacturer to a second manufacturer, the commodity control byte data may be *linearly extended* by adding manufacturer information received from the second manufacturer to the byte data.

As shown in Figure 3, the commodity control byte data is extended such that data in the commodity control byte data is arranged in *a row direction*. The byte data may be extended such that the manufacturer information associated with the first manufacturer and the second manufacturer is arranged *adjacent to each other in a row direction*. Similarly, information associated with a third manufacturer may also be added to the commodity control byte data, *adjacent in a row direction* to the information associated with the second manufacturer. In other words, manufacturer information associated with the plurality of manufacturers is stored *in the same row*. Moreover, as the commodity flows from one client (*e.g.* a distributor) to a second

client (*e.g.* a shipping company), the commodity control byte data may be ***linearly extended in a row direction*** by adding client information associated with the second client to the byte data. In other words, client information associated with the plurality of clients is stored *in the same row*. Thus, new claim 11 has been added to recite that byte data is extended such that ***the arrangement of data indicates an order of a manufacturing channel and an order of transaction processes in a row direction***.

Perkowski, on the other hand, does not disclose, teach or suggest the claimed ***commodity control byte data*** that may be ***linearly extended***. Perkowski uses a ***relational database*** management system to store commodity control information (Perkowski, Figure 2-1 and paragraph [0418]). In Perkowski, manufacture information, retailer information, and consumer information are stored in separate tables (Perkowski, Figures 4C, 4C1 and 15E, 15H, and paragraphs [0288] and [0291]). According to the relationship database schema of Perkowski, when a product moves from a raw material supplier to a manufacturer, a new row of data is added to the “manufacturer” table. When the product moves from the manufacturer to a retailer, a new row of data is added to the “retailer” table, and a new row of data is added to the “consumer” table when a consumer purchases the product. Thus, in Perkowski, commodity control information is extended in multiple directions, rather than being ***extended in a linear direction***, as claimed in claims 3 and 10.

For at least the foregoing reasons, independent claims 3 and 10 patentably define over the teachings of Perkowski. As claims 4-8 depend from claim 3, claims 4-8 also patentably define over the teachings of the asserted reference.

Furthermore, with respect to claim 11, Perkowski does not teach or suggest that the commodity control information may be linearly extended such that ***the arrangement of data indicates an order of a manufacturing channel and an order of transaction processes in a row direction***, as claimed. By contrast, because the Perkowski system stores manufacturer information, retailer information, and consumer information are stored in separate tables. Manufacturer information and client information is stored in the same row to indicate the order of manufacturing channel and transaction processes in a row direction. Rather, the order cannot be obtained without joining data from multiple tables. In fact, nowhere in Perkowski teaches or

DOCKET NO.: SHIO-0075
Application No.: 10/536,548
Office Action Dated: October 15, 2010

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even suggests that data is stored in a way to indicate the order of manufacturing channel or transaction processes *in a row direction*.

Claim 11 recites that the commodity byte data comprises a first portion identifying the manufacturer information, and a second portion *adjacent to* the first portion *in a row direction* identifying the client information. As described above, Perkowski system stores such information in separate tables (Perkowski, Figures 4C, 4C1, 15E and 15H, and paragraphs [0288] and [0291]). Therefore, Perkowski does not teach or even suggest storing manufacturer information and client information in a manner recited in claim 11.

Accordingly, for at least the foregoing reasons, Applicants respectfully submit that the claims patentably define over the cited art. Applicants respectfully submit that the present application is in condition for allowance and requests reconsideration of the application and a Notice of Allowance for claims 3-8 and 10-14.

Date: January 18, 2011

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